IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A.No.2643 of 2006
Date of Decision : 04.12.2007

Ram Lal .....Appellant

versus

Darshan Lal and others .....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present : Shri Pritam Saini, Advocate for the appellant.

-.-

JUDGMENT

HEMANT GUPTA, J. (Oral)

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the Courts below whereby his suit for possession was dismissed.

It is contended by the appellant that the plaintiff's predecessor-in-interest Parvati executed a registered lease deed in favour of defendant No.1 on 29.9.1982 for a period of 20 years. By virtue of the Civil Court decree dated 20.7.1991, the land measuring 35 kanals 12 marlas i.e. the subject matter of lease, was transferred in favour of the plaintiff. It is, thus, contended that the lease period has expired on 29.9.2002 and, therefore, the possession of the defendant is illegal, unauthorized and thus, the plaintiff is entitled to possession of the same. The defendants have taken up a stand that defendant No.1 is tenant on fixed *Chakota* and defendant No.3 as tenant paying 1/3rd *batai* and, thus, said defendants cannot be ejected except after obtaining the ejectment order from the competent authority.

The learned trial Court dismissed the suit holding that the plaintiff is not in possession of the suit land, but in a decree of joint possession, as the possession can be taken only in terms of the provisions of Punjab Tenancy Act, 1887. The said judgment and decree was affirmed in appeal as well. It was held that the tenancy would not come to an end unless it is terminated under the provisions of the Punjab Security of Land Tenures Act, 1953.

The learned counsel for the appellant has vehemently argued that after the expiry of the lease period, the possession of the tenant is that of an unauthorized occupant and, thus, the Civil Court has the jurisdiction to grant a decree for possession. Reference is made to the Full Bench judgment of this Court reported as ***"Roshan @ Roshan Lal Versus The Secretary, Government of Haryana, 1998 (3) P.L.R.651"*** and Division Bench judgment of this Court, reported as ***"Baldev Singh Versus State of Punjab, 1998 (3) P.L.R.785"*** and a judgment of the Hon'ble Supreme Court, reported as ***"Shri Raja Durga Singh of Solon Versus Tholu and others, AIR-1963 S.C.361".***

Having heard learned counsel for the appellant, I do not find any illegality or irregularity in the findings recorded by the learned Courts below. In Roshan's case (supra), the Court has considered the question of jurisdiction of the Civil Court in relation to ejectment proceedings initiated by the Gram Panchayat against an unauthorized occupant. It may be noticed that the lease in the aforesaid case was granted by the Panchayat under the provisions of the Punjab Village Common Lands (Regulation) Act, 1961. The lease was to be governed by the said statute. A remedy is provided under Section 7 of the aforesaid Act to seek possession from the person in

unauthorized possession of the suit property. In Baldev Singh's case (supra), it was found that a tenant has no right to challenge the title of his landlord and if the tenancy is for a fixed period, the same is terminated automatically on the expiry of the lease period and the person in possession becomes unauthorized occupant. However, the question whether such unauthorized occupant being statutory tenant can be evicted without taking recourse of law, was not the question raised or decided nor the question of jurisdiction of the Civil Court to grant decree for possession was raised therein.

In "***Shri Raja Durga Singh Versus Tholu and otheres, AIR 1963, SC-361"***, the Court found that suit for possession and mesne profits against the defendant who claims to be occupancy tenant and status as tenant is not barred from the cognizance of the Civil Court. However, in the present case, it is the admitted fact that defendant No.1 was inducted as tenant for a period of 20 years. Therefore, the question which requires to be examined is whether after the expiry of the period of lease, the tenant can be evicted by filing a Civil Suit for possession. The said question was not the question raised or decided in the aforesaid judgment. Therefore, even the said judgment provide little assistance to the appellant.

In the present case, the Punjab Security of Land Tenures Act, 1953 protects the tenancy of agricultural land in favour of the tenant. The Punjab Security of Land Tenures Act, 1953 specifies the grounds of eviction which are available to the landlord. The eviction of a tenant after the expiry of lease is not a ground mentioned therein. Therefore, after the expiry of lease, the tenant would be a statutory tenant and such tenant can be evicted only in terms of one or the other grounds of eviction contemplated under Section 9 of the Punjab Security of land Tenures Act,

1953. Such eviction proceedings have to be initiated before the competent Revenue Court. Therefore, I do not find any illegality or irregularity in the finding recorded that the Civil Court has no jurisdiction to grant a decree for possession.

In view of the above, I do not find that any substantial question of law arise for consideration of this Court in second appeal. Consequently, the present appeal is dismissed in limine.

04-12-2007 **(HEMANT GUPTA)**
*mohinder **JUDGE**